

STATE OF MICHIGAN  
COURT OF APPEALS

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SANDRA M. PETERSON, Personal  
Representative of the Estate of MAHUGH  
PETERSON, JR., Deceased,

Plaintiff-Appellant,

v

JOHN KRAUSMAN, M.D.,

Defendant-Appellee,

and

ST. MARY HOSPITAL and RAMESH K.  
MOHINDRA, M.D.,

Defendants.

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Before: Bandstra, P.J., and Fitzgerald and White, JJ.

PER CURIAM.

Plaintiff appeals as of right the order granting defendant's motion for directed verdict in this medical malpractice action. We affirm.

At the close of plaintiff's proofs, the trial court granted defendant's motion for directed verdict on the ground that plaintiff failed to make a prima facie showing that defendant breached the standard of care. Proof of a medical malpractice claim requires the demonstration of the following four factors: (1) the applicable standard of care, (2) breach of that standard of care by the defendant, (3) injury, and (4) proximate causation between the alleged breach and the injury. MCL 600.2912a; *Locke v Pachtman*, 446 Mich 216, 222; 521 NW2d 786 (1994). To survive a motion for directed verdict, the plaintiff must make a prima facie showing regarding each of the four elements. *Id.*

This Court reviews de novo a trial court's decision to grant or deny a motion for a directed verdict. *Tobin v Providence Hosp*, 244 Mich App 626, 642; 624 NW2d 548 (2001). We evaluate a motion for a directed verdict by considering the evidence in the light most favorable to the nonmoving party, making all reasonable inferences in the nonmoving party's favor. *Id.* at 643.

Plaintiff argues that the trial court erred in finding that she had to present expert testimony that defendant breached the standard of care. Citing *Baldwin v Williams*, 104 Mich App 735, 739; 306 NW2d 314 (1981), she maintains that expert testimony regarding breach of the standard of care is not necessary where the expert stated the applicable standard of care and other factual testimony elicited at trial established what procedure was actually followed by the defendant. *Id.* at 738-739. *Baldwin*, incidentally, was decided before November 1, 1990, and is not binding on this Court, MCR 7.215(J)(1). *Baldwin* is also inconsistent with other decisions issued before 1990. See, e.g., *Thomas v McPherson Community Health Center*, 155 Mich App 700, 705; 400 NW2d 629 (1986),<sup>1</sup> wherein this Court stated that in a medical malpractice action, “expert testimony is required to establish the applicable standard of conduct, *the breach of that standard*, and causation.” *Id.* (emphasis added). In *Thomas*, the Court directed a verdict in favor of the defendant, holding that, because plaintiffs failed to present expert opinion that the defendant breached the appropriate standard of care, consideration of defendant’s liability would have been the subject of speculation or conjecture. *Id.* at 704-705. And, more recent binding decisions agree with *Thomas*. See, e.g., *Wiley v Henry Ford Cottage Hosp*, 257 Mich App 488, 494; 668 NW2d 402 (2003) (expert testimony is required in medical malpractice cases to establish the applicable standard of care *and to demonstrate that the defendant . . . breached that standard*).

In this case, plaintiff failed to establish the standard of care specifically applicable to Dr. Krausman. And plaintiff’s expert did not express any opinion that Dr. Krausman breached the standard of care by any specific act or omission committed during the decedent’s treatment. Moreover, plaintiff’s expert testified that he could not say that Dr. Krausman’s compliance with the standard of care would have affected the outcome. Consequently, plaintiff failed to satisfy the elements necessary for a prima facie case of medical malpractice, and the trial court properly granted defendant’s motion for a directed verdict.

Plaintiff also argues that the trial court deprived her of a fair trial and of due process of law by directing a verdict for defendant. Plaintiff fails to adequately brief her constitutional arguments and fails to cite authority for them. These arguments are therefore considered abandoned on appeal. *Tingley v 900 Monroe, LLC*, 266 Mich App 233, 245-246, 255-256; \_\_\_ NW2d \_\_\_ (2005).

Affirmed.

/s/ Richard A. Bandstra  
/s/ E. Thomas Fitzgerald  
/s/ Helene N. White

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<sup>1</sup> See also *Waati v Marquette Gen Hosp, Inc*, 122 Mich App 44, 48; 329 NW2d 526 (1982).